UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,091	12/15/2003	Harusuke Naito	0405-0001	3284

7590 05/23/2006

Daniel M. Riess
Cook, Alex, McFarron, Manzo,
Cummings & Mehler, Ltd.
200 West Adams Street, Suite 2850
Chicago, IL 60606

EXAMINER	
REIFSNYDER, DAVID A	

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,091	NAITO, HARUSUKE	
	Examiner	Art Unit	
	David A. Reifsnyder	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 July 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/03; 4/04; 7/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12, 15-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12, 14-21, 25 and 26, respectively of copending Application No. 10/959,717. Although the conflicting claims are not identical, they are not patentably distinct from each other because .

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 13 and 14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 13 of copending

Application No. 10/959,717. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons discussed above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13-16 and 19-24 are rejected under 35 U.S.C. 102 (b) as being anticipated by Naito '471.

Regarding claims 1-10, 13-16 and 19-24; Naito '471 discloses a shower water purifier (1), comprising: a cylindrical housing (2) containing a cylindrical cartridge filter (3), an upper porous partition (60) and a bottom porous partition (13), the cylindrical cartridge filter (3), the upper porous partition (60) and the bottom porous(13) define a chamber within the cylindrical cartridge filter (3); said housing (2) having a central longitudinal axis and a pair of opposite ends spaced along said central longitudinal axis, said cylindrical housing (2) being formed with a water inlet (2a , 12a) at said one end and a water outlet (13a,13c) at said other end to allow a flow of water through said chamber in a direction parallel to said central longitudinal axis; the chamber is divided in sections by porous partitions (60, 61, 62, 63, 64) which extend perpendicular to said

central longitudinal axis; the following layers are disposed in said chamber in series between the porous partitions (60, 61, 62, 63, 64); an activated carbon layer (14), a bakuhaneski layer (15), a first magnetite layer (18) comprising a first annular magnet (16), a ceramic layer (20), and a second magnetite layer (20) comprising a second annular magnet (16).

Claims 1-10, 13-16 and 19-24 are rejected under 35 U.S.C. 102 (b) as being anticipated by Naito '900.

Regarding claims 1-10, 13-16 and 19-24; Naito '900 discloses a water purifier (A) capable of purifying shower water, comprising: a cylindrical housing (10) containing a cylindrical body (11), a upper plate (12) and a bottom plate (13), the cylindrical body (11), the upper plate (12) and the bottom plate (13) define a chamber; said cylindrical housing (11) having a central longitudinal axis and a pair of opposite ends spaced along said central longitudinal axis, said cylindrical housing (2) being formed with a water inlet (12a) at said one end and a water outlet (13a) at said other end to allow a flow of water through said chamber in a direction parallel to said central longitudinal axis; the chamber is divided in sections by a plurality of porous partitions (32) some of the porous partitions being adjacent to fabric filters (33), the porous partitions (32) and fabric filters (33) extend perpendicular to said central longitudinal axis; the following layers are disposed in said chamber in series between the porous partitions (32); a first sand layer (21) comprising a first annular magnet (40-1), an activated carbon layer (22), a second sand layer (23), a ceramic layer (24), a first magnetite layer (25)

comprising a second annular magnet (40-2), a second ceramic layer (26), a second magnetite layer (27) comprising a third annular magnet (40-3), and a stone layer (28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naito '471 in view of Urakami.

Regarding claims 11, 12, 17 and 18; Naito '471 discloses the claimed invention as discussed above and teaches that his annular magnets are being used to activate water. (col. 6, lines 58-65 of Naito '471) Naito '471 fails to teach that respective annular magnets are positioned such so the same polarities of the adjacent annular magnets face each other.

Regarding claims 11, 12, 17 and 18; Urakami teaches that it is known when activating water, for respective magnets to be positioned such that the same polarities of adjacent magnets face each other. It is considered that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have positioned Naito '471's annular magnets so that the same polarities of the adjacent annular magnets are facing each other, as taught by in order to create a larger magnetic force and more efficiently activate water in Naito '471's shower water purifier.

Claims 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naito '900.

Regarding claims 11, 12, 17 and 18; Naito '900 discloses the claimed invention as discussed above and teaches that his annular magnets are being used to activate water. (col. 3, lines 3-11 of Naito '900) Naito '900 fails to teach that respective annular magnets are positioned such so the same polarities of the adjacent annular magnets face each other.

Regarding claims 11, 12, 17 and 18; Urakami teaches that it is known when activating water, for respective magnets to be positioned such that the same polarities of adjacent magnets face each other. It is considered that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have positioned Naito '900's annular magnets so that the same polarities of the adjacent annular magnets are facing each other, as taught by in order to create a larger magnetic force and more efficiently activate water in Naito '900's water purifier.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David A Reifsnyder
Primary Examiner
Art Unit 1723

DAR